

Proposed Petition Rule against Proposed Task Force Rule 5.3(a)(2)

Rule 5.3(a)(2)

(2) *Withdrawal and Substitution.*

- (A) *Court Order Required.* Except as otherwise provided in these rules, ~~or~~ in any local rules pertaining to domestic relations actions, **or where there has been a change of counsel within the same law firm or governmental law office**, an attorney may not withdraw, or be substituted, as attorney of record in any pending action unless authorized to do so by court order.
- (B) *Application to Withdraw or Substitute Counsel.* An application to withdraw or be substituted as attorney of record for a party must be in writing, state the reasons for the withdrawal or substitution, and set forth the client's address and telephone number. Additionally:
- (i) If the application bears the client's written approval, it must be accompanied by a proposed written order and may be presented to the court ex parte. The withdrawing attorney must give prompt notice of the entry of such order, together with the client's name and address, to all other parties.
 - (ii) If the application does not bear the client's written approval, it must be made by motion and must be served on the client and all other parties. The motion must be accompanied by a certificate of the moving attorney that the client has been notified in writing of the status of the action (including the dates and times of any court hearings or trial settings, pending compliance with any existing court orders, and the possibility of sanctions), or that the client cannot be located or cannot be notified of the motion's pendency and the case status.
- (C) *Withdrawal After Trial Setting.* No attorney will be permitted to withdraw as attorney of record after a trial date is set, unless:

- (i) the application includes the signed statement of a substituting attorney stating that the attorney is aware of the trial date and will be prepared for trial, or the client's signed statement stating that the client is aware of the trial date and has made suitable arrangements to be prepared for trial; or
- (ii) the attorney seeking withdrawal shows good cause for allowing the attorney to withdraw even though the action has been set for trial.

(D) If there is a change of counsel within the same law firm or governmental law office, an order of substitution or association is not required. Instead, the new attorney must file a notice of substitution or association. The notice must state the names of the attorneys who are the subjects of the substitution or association and the current address and e-mail address of the attorney substituting or associating.